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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,566	05/19/2005	Norio Okada	ARI-38267	7694
116 7590 09/30/2008 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER TORRES, MARCOS L				
ART UNIT 2617		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/535,566

Applicant(s)

OKADA ET AL.

Examiner

MARCOS L. TORRES

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4, 6-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 and 9 is/are allowed.
- 6) ☒ Claim(s) 1, 4, 6 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 7-31-08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1 and 4 have been considered but are moot in view of the new ground(s) of rejection.
2. Applicant's representative [hereinafter applicant] arguments that Shibata fails to disclose the limitations of failing to address using direction of rotation; please look fig. 14 of Shibata where he clearly shows in steps 1403, 1406 and 1408 using the direction of the rotation to enter in designated operation mode 1404, 1405, 1407 1409. Even though applicant only arguments using the direction [which is taught Shibata as explained above], reaches to the conclusion that is "completely different" however applicant fails to support their argument because there is no explanation why is "completely different".
3. Also Bum discloses using the direction of rotation to show the display on portrait or landscape, see col. 3, lines 13-53.
4. The rest of the arguments they fall together for the same reasons as shown above. The rejection in record stands.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Shibata 20010004269.

As to claim 1, Shibata discloses a mobile communication apparatus having a longitudinal axis (see fig. 1, 3, 9 item 32), and having operation modes, comprising: first (20) and second (10) housings each having front and rear surfaces and a rotation axis located between said front and rear surfaces (see fig. 1, 3, 9), displaying means displaying provided on said front surface of said first housing (see fig. 1, 3, 9, item 21), and adapted to display image data or character data on a screen (see par. 0205); operating means provided on said front surface of said second housing, and having a plurality of keys to be selectively operated by a user (see fig. 9, item 17); rotating means (32) for connecting said first housing with said second housing, and to allow said first and second housings to be rotated with respect to each other under the condition that said rotation axis of each of said first and second housings is axially aligned with said longitudinal axis [of the display] (see fig. 1, 3, 9, item 32; par. 205); rotation angle detecting means (55) for detecting a rotation angle and rotation direction of one of said first and second housings with respect to the other of said first and second housings when said first and second housings are rotated with respect to each other (see par. 0242, 0214); and setting means for selecting, from among said operation modes, an operation mode corresponding to the combination of said rotation angle detected by said rotation angle detecting means, and setting said selected operation mode to ensure that said mobile communication apparatus assumes said selected operation mode (see par. 0239-0247), said setting means is further responsive to the clockwise or anticlockwise direction of rotary movement between said displaying means and said operating means about said rotation axis, said direction of rotary movement being for

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controlling said operation modes in accordance with whether the detected direction of rotary movement is clockwise or anticlockwise (see fig. 14, items 1403, 1406, 1408 1404, 1405, 1407 1409; par. 0241-0249).

As to claim 4, Shibata discloses a mobile communication in which said rotating means includes a rotation shaft provided in one of said first and second housings, and a retaining unit provided in the other of said housings to allow said rotation shaft to be rotatable around its rotation axis axially aligned with said longitudinal axis [of the display] (see fig. 1, item 32).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shibata in view of Wada 6965413.

As to claim 6, Shibata discloses a mobile communication apparatus, which further comprises a camera unit (33) provided on a side surface of said second housing (see fig. 3, items 10, 33), said camera unit having a direction opposite to the direction of said screen of said displaying means, and in which said operation modes includes a camera mode, said setting means is operative to set said camera mode when said combination of said rotation angle and rotation direction detected by said rotation angle detecting means corresponds to said camera mode (see fig. 2, 3, item 33; par. 0210, 0214, 0225, 0136-0137). In Shibata the location of the lens "camera unit" is on the side of the second housing rather than the rear of the housing. In an analogous reference, Wada discloses the same rotation mechanism (see fig. 4, items axis B) of the present application and also have the camera in the same position in the back of the second housing (see fig. 2a-c, 5a-b). Therefore it would have been obvious to one of the ordinary skill in the art to place the camera in the second housing for the simple purpose of permitting the user to take a picture of himself or herself as well as a picture of an

outside object by rotating the camera with respect to the display (see col. 1, line 49 –col. 2, line 3).

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shibata in view Wada as applied to claim 6 above, and further in view of Prior 6681124.

As to claim 7, Shibata discloses a mobile communication apparatus, which has additional operation modes additional functions in each operation mode (see par. 0210-0225), said sub-operating unit having a plurality of keys (dial 34 and button 11) to be selectively operated by said user, said mobile communication apparatus is operative to selectively perform said additional functions when said keys of said sub-operating unit are operated by said user (see fig. 3, items 11,34; par. 0204-0206). Shibata sub-operating means is located in the side of the device rather than the rear of the device. In an analogous art, Prior disclose said sub-operating unit having a plurality of keys to be selectively operated by said user, said mobile communication apparatus is operative to selectively perform said additional functions when said keys of said sub-operating unit are operated by said user and further comprises sub-operating means unit provided on said rear surface of said second housing (see fig. 6-11; col. 4, line 60- col. 5, line 45, showing the front and rear of the device with each operating and sub-operating means). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to put a secondary keypad to give easy access to particular functions to the user with a single hand (see col. 1, lines 21-26).

12. Claims 1 and 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Kfoury 6549789 in view of Bum 7200423 and further in view of Shibata.

As to claim 1, Kfoury discloses a mobile communication apparatus having a longitudinal axis (see fig. 4 and 8), and having operation modes, comprising: first (204) and second (202) housings each having front and rear surfaces and a rotation axis located between said front and rear surfaces (see fig. 2), displaying means displaying provided on said front surface of said first housing (see fig. 2, item 212), and adapted to display image data or character data on a screen (see col. 7, lines 49-58); operating means provided on said front surface of said second housing, and having a plurality of keys to be selectively operated by a user (see fig. 2, item 208); rotating means (214) for connecting said first housing with said second housing, and to allow said first and second housings to be rotated with respect to each other under the condition that said rotation axis of each of said first and second housings is axially aligned with said longitudinal axis (see fig. 2, item 214, fig 4); rotation angle detecting means (135) for detecting a rotation angle of one of said first and second housings with respect to the other of said first and second housings when said first and second housings are rotated with respect to each other (see fig. 1, item 135; col. 4, 29-32); and setting means for selecting, from among said operation modes, an operation mode corresponding to the combination of said rotation angle detected by said rotation angle detecting means, and setting said selected operation mode to ensure that said mobile communication apparatus assumes said selected operation mode (see col. 5, lines 13-64; col. 6, line 66 – col. 7, line 13). Kfoury does not specifically disclose detecting directions of rotation. In an analogous art, Bum discloses detecting direction of rotation said setting means is further responsive to the clockwise or anticlockwise direction of rotary movement

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between said displaying means and said operating means about said rotation axis, said direction of rotary movement being for controlling said operation modes in accordance with whether the detected direction of rotary movement is clockwise or anticlockwise (see col. 3, lines 13-53). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to detect the direction of rotation for the simple purpose of setting the correct operating mode according to the rotation, (for example the correct displaying side). (Note: according to the specification the axis is longitudinal with respect to the display, however claims does not set a reference point and limitations from the specification are not being read into the claim.

As to claim 4, Kfoury discloses a mobile communication in which said rotating means includes a rotation shaft provided in one of said first and second housings, and a retaining unit provided in the other of said housings to allow said rotation shaft to be rotatable around its rotation axis axially aligned with said longitudinal axis (see fig. 4).

Allowable Subject Matter

13. Claims 8-9 are allowed.
14. The following is a statement of reasons for the indication of allowable subject matter: see previous office action.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any response to this Office Action should be mailed to:

U.S. Patent and Trademark Office
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

571-273-8300

for formal communication intended for entry, informal communication or draft communication; in the case of informal or draft communication, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARCOS L. TORRES whose telephone number is (571)272-7926. The examiner can normally be reached on 9:30 am - 6:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-252-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/
Supervisory Patent Examiner, Art Unit 2617

/Marcos L Torres/
Examiner, Art Unit 2617